



**Federal Communications Commission  
Enforcement Bureau  
Investigations and Hearings Division  
445 12<sup>th</sup> Street, SW, Suite 4-C330  
Washington, D.C. 20554**

September 25, 2007

**DA 07-4036**

**VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED AND E-MAIL**

Mr. Richard E. Brown  
c/o Douglas McNabb, Esq.  
McNabb Associates PC  
JP Morgan Chase Tower  
600 Travis Street, Suite 7070  
Houston, TX 77002

**Re: Notice of Suspension and Initiation of Debarment Proceedings,  
File No. EB-07-IH-5369**

Dear Mr. Brown:

The Federal Communications Commission ("FCC" or "Commission") has received notice of your conviction for mail fraud in violation of 18 U.S.C. § 1341 in connection with your participation in the schools and libraries universal service support mechanism ("E-Rate program").<sup>1</sup> Consequently, pursuant to 47 C.F.R. § 54.521, this letter constitutes official notice of your suspension from the E-Rate program. In addition, the Enforcement Bureau ("Bureau") hereby notifies you that we are commencing debarment proceedings against you.<sup>2</sup>

**I. Notice of Suspension**

The Commission has established procedures to prevent persons who have "defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism" from receiving the benefits

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<sup>1</sup> Any further reference in this letter to "your conviction" refers to your February 13, 2007 guilty plea and subsequent conviction of three counts of mail fraud. *United States v. Richard E. Brown*, Criminal Docket No. 3:07-CR-29 (RNC), Plea Agreement (D.Conn. filed Feb. 13, 2007 and entered Feb. 14, 2007) ("*Brown Plea Agreement*"); *United States v. Richard E. Brown*, 3:07-CR-29 (RNC), Judgment (D.Conn. filed Sept. 6, 2007 and entered Sept. 7, 2007) ("*Brown Judgment*").

<sup>2</sup> 47 C.F.R. § 54.521; 47 C.F.R. § 0.111(a)(14) (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings pursuant to 47 C.F.R. § 54.521).

associated with that program.<sup>3</sup> You pled guilty to three counts of mail fraud for activities in connection with your participation in the E-Rate program involving telecommunications upgrade projects in four Connecticut school districts.<sup>4</sup> While employed at Southwestern Bell Communications (“SBC”), the prime contractor servicing these school districts, you recommended subcontractors to perform telecommunications upgrades in four Connecticut school districts. You also reviewed invoices submitted by the subcontractors to SBC for payment that SBC then submitted to the Universal Service Administrative Company (“USAC”) for reimbursement from the E-Rate fund.<sup>5</sup> You admitted to participating in schemes to defraud the E-Rate program where fictitious bills for upgrades that were never performed were submitted to USAC for reimbursement from the E-Rate fund.<sup>6</sup> In another fraudulent scheme in which you admitted to being a participant, engineering services for upgrade projects were billed at inflated rates and the associated invoices were also submitted to USAC for E-Rate reimbursement.<sup>7</sup> In sum, these schemes generated approximately \$1,564,768 in fictitious expenses and approximately \$956,203 of these expenses ultimately were submitted to the USAC for reimbursement from E-Rate fund.<sup>8</sup>

Pursuant to section 54.521(a)(4) of the Commission’s rules,<sup>9</sup> your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.<sup>10</sup> Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the Federal Register.<sup>11</sup>

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<sup>3</sup> See *Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9225, ¶ 66 (2003) (“*Second Report and Order*”). The Commission’s debarment rules define a “person” as “[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however, organized.” 47 C.F.R. § 54.521(a)(6).

<sup>4</sup> See generally *United States v. Richard E. Brown*, Criminal Docket No. 3:07-CR-29 (RNC), Information (D.Conn. filed and entered Jul. 28, 2006) (“*Information*”); *Brown Plea Agreement* at 1; *Brown Judgment* at 1.

<sup>5</sup> See *Information* at 2-3.

<sup>6</sup> See *Information* at 1-8.

<sup>7</sup> See *Information* at 8-10.

<sup>8</sup> See *Information* at 3, 5, 8; <http://www.usdoj.gov/usao/ct/Press2007/20070829-3.html> (Department of Justice Press Release dated August 29, 2007) (last accessed September 12, 2007) (“*DOJ August 29 Press Release*”). See also Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Scott A. Federowicz, c/o Paul H.D. Stoughton, Conway & Stoughton, LLP, Notice of Suspension and Initiation of Debarment Proceedings, File No. EB-07-IH-5171, (rel. June 27, 2007) (“*Federowicz Suspension Letter*”); 72 Fed. Reg. 39425 (Jul. 18, 2007).

<sup>9</sup> 47 C.F.R. § 54.521(a)(4). See *Second Report and Order*, 18 FCC Rcd at 9225-9227, ¶¶ 67-74 (2003).

<sup>10</sup> *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 U.S.C. § 254; 47 C.F.R. §§ 54.502-54.503; 47 C.F.R. § 54.521(a)(4).

<sup>11</sup> *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 69; 47 C.F.R. § 54.521(e)(1).

Suspension is immediate pending the Bureau's final debarment determination. In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the Federal Register, whichever comes first.<sup>12</sup> Such requests, however, will not ordinarily be granted.<sup>13</sup> The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.<sup>14</sup> Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.<sup>15</sup>

## **II. Initiation of Debarment Proceedings**

Your guilty plea to criminal conduct in connection with the E-Rate program, in addition to serving as a basis for immediate suspension from the program, also serves as a basis for the initiation of debarment proceedings against you. Your conviction falls within the categories of causes for debarment defined in section 54.521(c) of the Commission's rules.<sup>16</sup> Therefore, pursuant to section 54.521(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

As with your suspension, you may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the Federal Register.<sup>17</sup> Absent extraordinary circumstances, the Bureau will debar you.<sup>18</sup> Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.<sup>19</sup> If the

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<sup>12</sup> *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(4).

<sup>13</sup> *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70.

<sup>14</sup> 47 C.F.R. § 54.521(e)(5).

<sup>15</sup> *See Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. §§ 54.521(e)(5), 54.521(f).

<sup>16</sup> "Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism." 47 C.F.R. § 54.521(c). Such activities "include the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding schools and libraries support mechanism described in this section ([47 C.F. R.] § 54.500 *et seq.*)." 47 C.F.R. § 54.521(a)(1).

<sup>17</sup> *See Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. §§ 54.521(e)(2)(i), 54.521(e)(3).

<sup>18</sup> *Second Report and Order*, 18 FCC Rcd at 9227, ¶ 74.

<sup>19</sup> *See id.*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(5).

Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of the decision in the Federal Register.<sup>20</sup>

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for three years from the date of debarment.<sup>21</sup> The Bureau may, if necessary to protect the public interest, extend the debarment period.<sup>22</sup>

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002, to the attention of Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Room 4-C330, Washington, DC, 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Room 4-C330, Washington, DC, 20554. You shall also transmit a copy of the response via email to [diana.lee@fcc.gov](mailto:diana.lee@fcc.gov) and to [vickie.robinson@fcc.gov](mailto:vickie.robinson@fcc.gov).

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<sup>20</sup> *Id.* The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 C.F.R. § 54.521(f).

<sup>21</sup> *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 C.F.R. §§ 54.521(d), 54.521(g).

<sup>22</sup> *Id.*

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If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418-1420 or by e-mail at [diana.lee@fcc.gov](mailto:diana.lee@fcc.gov). If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418-1420 and by e-mail at [vickie.robinson@fcc.gov](mailto:vickie.robinson@fcc.gov).

Sincerely yours,

Hillary S. DeNigro  
Chief  
Investigations and Hearings Division  
Enforcement Bureau

cc: Calvin B. Kurimai, Esq., Assistant United States Attorney  
Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail)